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WASHINGTON, D.C. 20554

6 AUG 1993

IN REPLY REFER TO:
7330-7/1750A3

Honorable Patty Murray
United States Senate
B34 Dirksen Senate Office Building
Washington, D.C. 20510-4704

RECEIVED

AUG 12 1993

Dear Senator Murray:

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

This is in reply to your letter of July 21, 1993, in which you inquired on behalf of your constituent, A.G. Elsbree, regarding the Notice of Proposed Rule Making (Notice) in PR Docket No. 92-235, 57 FR 54034 (1992). The Communications Act of 1934, as amended, including Section 303(g), directs the Commission to formulate rules to meet the spectrum needs of public safety and other two-way mobile users and to promote innovative technologies. Thus, this Notice proposes comprehensive changes to the Commission's Rules governing the private land mobile radio services operating in the frequency bands below 512 MHz.

The proposals in the Notice reflect to a large extent concepts and proposals submitted in the initial inquiry stages of this proceeding. None of the proposals set forth in the Notice, however, are engraved in stone. Indeed, the proposals represent our best judgment at this stage of the proceeding on steps that must be taken to improve the regulatory climate for users of the private land mobile radio spectrum below 512 MHz. I have enclosed for your information a copy of that part of the Notice that describes the numerous proposals, plus a discussion paper released March 1, 1993.

We are sensitive to the needs of users of private land mobile radio spectrum and the impact that these proposals may have on their radio systems, including the costs of required modifications. Your constituent's letter will be included in the record of the proceeding and will be fully evaluated when we develop final rules.

Thank you for your interest in this proceeding. We expect to issue final rules in 1994.

Sincerely,

181

Joseph A. Levin
Chief, Policy and Planning Branch
Private Radio Bureau

Enclosures

No. of Copies rec'd 2 copies
List A B C D E

PATTY MURRAY
WASHINGTON

United States Senate

WASHINGTON, DC 20510-4704

July 21, 1993

PRB
92-235
3979

Mr. Steve Klitzman
Associate Director
Office of Legislative Affairs
FCC
1919 M St. NW
Washington, DC 20554

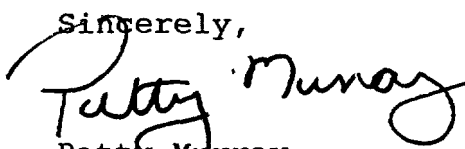
Dear Mr. Klitzman:

Enclosed please find copies of two letters which represent the concerns of some of my constituents in Washington State.

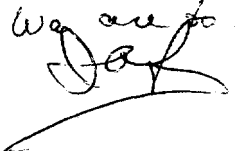
Both A.G. Elsbree, Vice President of the James River Corporation, and David Thompson, President of the SEA Company, have concerns regarding the impact of NPRM-PR Docket 92-235 on the safety and efficiency of their respective industry's operations. I would appreciate it if you would address their concerns.

Thank you for your attention to this matter. I look forward to your response.

Sincerely,


Patty Murray
United States Senator

PM/lch

7/30 Spoke to Laura Hewitt in Sen. Murray's office & discussed fact that SEA letter pertains to S.335 not 92-335. We are to respond only to Elsbree letter.




JAMES RIVER CORPORATION

CAMAS MILL

4th and Adams, Camas, WA 98607

(206) 834-3021

Andrew G. Elsbree
Vice President, Resident Manager
Camas Mill
(206) 834-2969

27 May 1993

The Honorable Patty Murray
United States Senate
302 Hart Senate Office Building
Washington D. C. 20510

Dear Senator Murray:

James River Corporation is a licensee and user of two-way radio in the Forest Products Radio Service. The company has serious concerns regarding the proposals made by the Federal Communications Commission (FCC) in its Notice of Proposed Rule Making Docket No. 92-235, the Refarming Docket.

We oppose the Docket for a number of reasons. It would eliminate all private radio services, combining all frequencies into three general pools. It would place severe power limitations on high elevation base/repeater stations, thereby hampering radio systems where wide area communications are required. These two steps would severely jeopardize the efficiency and safety of James River pulp and paper mill operations. In addition, mandating a two-step channel splitting process, would cost the company hundreds of thousands of dollars per site with no improvements in radio service.

We ask for your support in expressing our concerns to the FCC, and to the Senate and House Commerce Committees and Communications Sub-Committees.

Very truly yours,

A. G. ELSBREE
Vice President - Resident Manager

106110 to FCC
106111

106113



June 18, 1993

Honorable Patty Murray
United States Senate
Washington, DC 20510-0238

Re: S.335

Dear Senator Murray:

SEA, Inc. of Mountlake Terrace, Washington is a domestic manufacturer of mobile radios with nearly 100 employees. It has invested over ten years of effort and several million dollars of capital in the development of equipment for the new narrowband radio service in the 220-222 MHz band. Our company was instrumental in testing narrowband radio propagation (utilizing only a 5 KHz bandwidth) and participated throughout the 10 year rulemaking effort at the FCC to have spectrum allocated for this new radio service.

As you may know, the FCC has encouraged radio manufacturers to develop spectrum efficient technology that operates on reduced bandwidths so more users can have access to the radio spectrum. SEA, Inc. met the FCC's challenge to develop spectrum efficient technology and is currently the only manufacturer in the world that has available FCC type-accepted radios to operate in the 220-222 MHz band. Because the company took the risk of developing this new technology, it is now poised to export its products abroad in addition to serving the domestic market.

Our efforts to create a new spectrum efficient radio service which could provide numerous benefits to business radio users across the country was finally being realized when the FCC began issuing licenses for the new 220-222 MHz Radio Service this past January. Now, the FCC auction legislation which has passed the House of Representatives and is pending in the Senate threatens the viability of the nascent 220-222 MHz industry and the future of our company.

Last year the FCC completed its random selection process to determine those applicants that would receive a 220-222 MHz radio license. The FCC has been issuing licenses to those selectees in a deliberate manner since January 1993, but due to resource constraints, only one quarter of the 220-222 MHz licenses have actually been issued in this six month period. The disastrous effect of the auction legislation would be to prohibit the FCC from issuing the remaining 220-222 MHz licenses.

Beginning October 1, 1993, Section 408 of the Senate Bill (S.335) mandates competitive bidding for the next five years for all radio spectrum licenses except those specifically carved

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out by new Section 309(j)(4)(A)-(E) of the Communications Act. None of the Section 309(j) exemptions would permit the FCC to continue issuing the 220-222 MHz licenses to the remaining lottery winners.

The 220-222 MHz Radio Service was created by the FCC in April of 1991 and applications were filed in May of 1991. In over two years the FCC has not been able to fully implement this new radio service because of administrative delays due to resource constraints. To have federal legislation inadvertently derail the implementation of a radio service established over two years ago is simply unconscionable.

It would be fundamentally unfair and perhaps unconstitutional for the FCC to discriminate among the selectees in the 220-222 MHz Radio Service solely on the basis of whether the FCC happened to get the paperwork of a lottery winner finished before the new fiscal year begins. If the 220 MHz selectees who have not received licenses file suit seeking a stay (or elimination) of the auction process as an unconstitutional denial of equal protection (based on some "reasonable basis" test), they would have a reasonable chance of prevailing, which would wreak havoc with the entire auction process as well as the 220-222 MHz industry.

As you can see, if enacted as currently drafted, this legislation would have a major adverse impact on the nascent 220-222 MHz industry. Because it would unreasonably discriminate against those lottery winners who have not been issued licenses, it would subject the entire 220-222 MHz licensing procedure to litigation. And even if litigation was not instituted, the process of adopting auction procedures will (allowing for the usual rulemaking process and appeals) take well over a year. This delay and uncertainty in the licensing procedure will impede construction of facilities and implementation of SEA's 220-222 MHz Narrowband Network. It will certainly have a very negative impact on SEA's ability to attract institutional financing to expand narrowband technology. In fact, this company's very survival will be threatened if the 220-222 MHz licensing process is subject to auction.

The auction legislation has already been passed by the House and has been marked-up and voted out of the full Commerce Committee in the Senate. We understand that it is scheduled for vote on the Senate floor early next week. We need your assistance in introducing a floor amendment to the Bill in order to rectify this egregious situation.

We understand that Congress needs to raise funds through spectrum auctions and fully agree that new services such as PCS/PCN and the 200 MHz of spectrum being reclaimed from the government should be licensed pursuant to auctions. However, to implement auctions midway through the 220-222 MHz Radio Service proceeding will disrupt the orderly licensing of the radio service and ultimately result in delayed service to the public. (Incidentally, the 220-222 MHz Radio Service is not the only industry adversely affected; pending applications for the Interactive Video Data Service, Multiple Address Service, and Cellular Unserved areas would also be unfairly prejudiced.)

The proposed amendment would simply exempt existing radio services from the auction process as follows:

Senator Patty Murray
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408. Competitive Bidding

(A) Competitive Bidding --

(1) In General --

- (a) **FIVE-YEAR AUTHORIZATION** -- The Commission shall, during fiscal years 1994 through 1998 use the competitive bidding process authorized under the amendment made by subsection (b) to grant all radio spectrum licenses (insert) in any new Radio Services established by the Commission after the end of fiscal year 1993 for which two or more mutually exclusive applications have been filed, including the 200 megahertz of spectrum made available to the Commission under this Act, and including the licenses issued for a personal communications service established pursuant to the proceeding entitled "Amendment to the Commission's Rules to Establish New Personal Communications Services," or any successor proceeding, except for those licenses identified in subparagraphs (A) through (E) of section 309(j)(4) of the Act and those licenses that the Commission determines should in the public interest be issued by comparative hearing under section 309(a) through (f) of the Act. To the extent possible, and consistent with the purposes of this subtitle, the Commission shall seek to ensure that revenues received pursuant to the competitive bidding process are received before the end of fiscal year 1998.

Because this amendment is crucial to the future of our company, SEA, Inc. is requesting your immediate assistance in this matter. I will be in Washington June 23-25 and would like to meet with you at that time. If you require further information in the interim, please have your staff contact my communications attorney in Washington, D.C., Robyn G. Nietert, at (202) 887-0600.

Thank you for your assistance and I look forward to hearing from you as soon as possible.

Best regards,


David Thompson, President
SEA, Inc.

murray.lrlpdl